

House Bill 405

By: Representatives Wilkinson of the 52nd, Stephens of the 164th, Coan of the 101st, Pruett of the 144th, Porter of the 143rd, and others

A BILL TO BE ENTITLED
AN ACT

To amend Article 2 of Chapter 7 of Title 48 of the Official Code of Georgia Annotated, relating to income tax imposition, rate, computation, and exemptions, so as to provide for tax credits for certain qualified equipment that reduces business or domestic energy or water usage; to provide an effective date; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Article 2 of Chapter 7 of Title 48 of the Official Code of Georgia Annotated, relating to income tax imposition, rate, computation, and exemptions, is amended by adding a new Code section to read as follows:

"48-7-40.29.

(a) As used in this Code section, the term:

(1) 'Qualified equipment' means energy efficient equipment or water efficient equipment.

(2) 'Energy efficient equipment' means all machinery and equipment certified pursuant to rules and regulations promulgated for purposes of this Code section by the commissioner, in consultation with the Department of Natural Resources, as effective in reducing business or domestic energy usage. Such certifications may include, by way of example and not limitation, any dishwasher, clothes washer, air conditioner, ceiling fan, fluorescent light bulb, dehumidifier, programmable thermostat, refrigerator, door, or window which has been designated by the United States Environmental Protection Agency and the United States Department of Energy as meeting or exceeding each such agency's energy saving efficiency requirements or which have been designated as meeting or exceeding such requirements under each such agency's Energy Star program.

(3) 'Water efficient equipment' means all machinery and equipment certified pursuant to rules and regulations promulgated for purposes of this Code section by the commissioner, in consultation with the Department of Natural Resources, as effective in reducing business or domestic water usage. Such certifications may include, by way of

example and not limitation, any product used for the conservation or efficient use of water which has been designated by the United States Environmental Protection Agency as meeting or exceeding such agency's water saving efficiency requirements or which has been designated as meeting or exceeding such requirements under such agency's Water Sense program.

(b) Rules and regulations of the commissioner shall establish classifications or categories of qualified equipment, and no item of such qualified equipment shall be included in more than one classification or category for purposes of claiming a tax credit under this Code section. The commissioner, in consultation with the Department of Natural Resources, may take all reasonable and necessary steps to identify qualified equipment and to bring such equipment to the attention of businesses in this state qualified to install such equipment.

(c) Any taxpayer who is the ultimate purchaser of an item of qualified equipment for installation as part of new construction or for retrofit in this state shall be allowed a single credit against the tax imposed under this article in the taxable year in which such qualified equipment has been placed in service. The amount of the credit allowed under this Code section shall be a percentage of the cost of the qualified equipment to be fixed for each classification or category of such equipment by rules and regulations promulgated by the commissioner, in consultation with the Department of Natural Resources, not to exceed the lesser of 25 percent of the cost thereof or \$5,000.00.

(d) The credit granted under subsection (c) of this Code section shall be subject to the following conditions and limitations:

(1) Such credit shall be transferable by the taxpayer to a taxpayer that is a homebuilder, home remodeler, or manufacturer, seller, or installer of qualified equipment in this state, pursuant to rules and regulations promulgated by the department and designed to simplify and encourage such transfers. Transfer of any credit for less than the full value thereof, except for a reasonable allowance for administrative costs of the transferee, shall be prohibited. Where the amount of such transferred credit or credits exceeds the transferee's liability for taxes imposed under this article in a taxable year, the excess may be taken as a credit against such transferee's quarterly or monthly payment under Code Section 48-7-103. Each employee whose employer receives credit against such transferee's quarterly or monthly payment under Code Section 48-7-103 shall receive credit against his or her income tax liability under Code Section 48-7-20 for the corresponding taxable year for the full amount which would be credited against such liability prior to the application of the credit provided for in this paragraph. Credits against quarterly or monthly payments under Code Section 48-7-103 and credits against

liability under Code Section 48-7-20 established by this paragraph shall not constitute income to the transferee;

(2) The utilization of the credit granted in this Code section shall have no effect on the taxpayer's ability to claim depreciation for tax purposes on assets acquired by the taxpayer, nor shall the credit have any effect on the taxpayer's basis in such assets for the purpose of depreciation; and

(3) Credits shall be granted under subsection (c) of this Code section only for those taxable years in which, and only to the extent that, federal funds granted to the state are made available for purposes of this Code section. If no federal funds are available for such purposes, no credit shall be granted under subsection (c) of this Code section."

SECTION 2.

This Act shall become effective only upon the date that federal funds granted to the state are made available for purposes of this Act.

SECTION 3.

All laws and parts of laws in conflict with this Act are repealed.